

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**1200 19TH STREET, N.W.**

**SUITE 500**

**WASHINGTON, D.C. 20036**

(202) 955-9600

FACSIMILE

(202) 955-9792

www.kelleydrye.com

NEW YORK, NY  
TYSONS CORNER, VA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES  
BANGKOK, THAILAND  
JAKARTA, INDONESIA  
MUMBAI, INDIA  
TOKYO, JAPAN

DIRECT LINE: (202) 887-1284

EMAIL: hhendrickson@kelleydrye.com

November 19, 2003

**VIA ELECTRONIC MAIL AND UPS**

Paula Foley, Esq. Hearing Officer  
Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02110

Re: DTE 03-60, Proposed Procedural Schedule

Dear Ms. Foley:

Pursuant to your November 13, 2003 procedural email, enclosed please find a proposed procedural schedule filed on behalf of Broadview Networks, Inc., BullsEye Telecom, Choice One Communications of Massachusetts, Inc., DSCI Corporation, Focal Communications Corporation of Massachusetts, InfoHighway Communications Corporation, McGraw Communications, Inc., MCI, MetTel and XO Massachusetts, Inc. (collectively the "Parties"). The Parties respectfully request that the Massachusetts Department of Telecommunications and Energy ("Department") adopt the proposed procedural schedule for the remainder of the nine-month proceeding in the above-captioned docket.

As demonstrated by the proposed procedural schedule, the Parties recommend two rounds of discovery for the nine-month proceeding. Discovery is critical so that the Department, as well as the parties in this proceeding, obtain the necessary company information for their respective impairment/non-impairment analyses. Furthermore, the proposed discovery cycles allow for oppositions to discovery, motions to compel and an opportunity for supplemental discovery responses, all within a reasonable timeframe that will not delay the proceeding.

Additionally, the proposed procedural schedule provides for a date certain by which Verizon must certify its case. The Parties submit that it is essential that Verizon close its case after the first round of testimony so that the second round of testimony will reflect inquiries based on Verizon's final factual basis for its non-impairment position, thus effectively narrowing

Ms. Paula Foley, Esq. Hearing Officer  
November 19, 2003  
Page Two

the scope of the nine-month case to the actual issues involved. With regard to testimony, the Parties recommend that initial and rebuttal testimony to be filed simultaneous by both participating CLECs and Verizon after Verizon has certified its case and the second round of discovery is complete. This allows the parties to provide comprehensive testimony based on a full and consistent record and not have to respond to changing facts and arguments. The Parties submit that the proposed dates of March 1, 2004 for direct testimony, and March 18, 2004 for rebuttal testimony provide all parties ample time to prepare testimony based on Verizon's certified case and the two rounds of discovery.

The Parties believe the Department should conduct full evidentiary hearings in this proceeding. Moreover, the hearings should be separated among the issues, *i.e.*, the hearings for loops and transport should be separate from the mass market switching hearings and separate hearings should be conducted for the batch-cut process. The Parties recommend a week and a half of hearings beginning April 5, 2004 and ending April 14, 2004. This timeframe can be split between the different issues as the Department deems necessary and, logistically, this timeframe does not conflict with hearing dates already established by other states in the northeast. Finally, regarding post-hearing briefs, the Parties recommend that the Department allow sufficient time for the all parties to prepare briefs following the hearing incorporating the complete record. The Parties suggest that initial post-hearing briefs be due three weeks after the close of the hearings or on May 6, 2004, and reply post-hearing briefs be due two weeks after the initial post-hearing briefs or on May 20, 2004.

Based on the foregoing, the Parties believe that the proposed procedural schedule outlined herein provides the Department and all parties in this proceeding an effective schedule to conduct a full and comprehensive investigation.

KELLEY DRYE & WARREN LLP

Ms. Paula Foley, Esq. Hearing Officer  
November 19, 2003  
Page Three

Thank you for your attention to this matter. If you have any questions regarding the proposed procedural schedule, please do not hesitate to contact the undersigned.

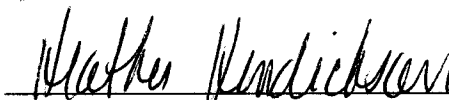
Respectfully submitted,

 #4

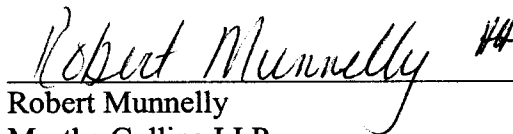
Steven Augustino  
Erin Emmott  
Kelley Drye & Warren LLP  
Counsel for Broadview Networks, Inc., Choice One  
Communications of Massachusetts, Inc., Focal  
Communications Corporation of Massachusetts,  
Inc., and XO Massachusetts, Inc.

 #4

Richard Fipphen, MCI



Genevieve Morelli  
Michael Hazzard  
Heather Hendrickson  
Kelley Drye & Warren LLP  
Counsel for Broadview Networks, Inc., BullsEye  
Telecom, InfoHighway Communications  
Corporation, McGraw Communications, Inc. and  
MetTel

 #4

Robert Munnelly  
Murtha Cullina LLP  
Counsel to DSCI Corporation

Enclosure

cc: Ms. Mary Cottrell, Secretary  
DTE 03-60 Service List (via email)

## PROPOSED MASSACHUSETTS PROCEDURAL SCHEDULE

Initial Party Discovery	12/2/2003
Opposition and Responses to Initial Party Discovery Due	12/16/2003
Motions to Compel	12/19/2003
Supplemental Party Discovery Responses Due	12/30/2003
Verizon Certification of Case	1/7/2004
Second Round of Party Discovery	1/13/2004
Opposition and Responses to Second Round of Party Discovery	1/27/2004
Motions to Compel	1/30/2004
Supplemental Second Round of Discovery Responses Due	2/10/2004
All Parties Direct Testimony Due	3/1/2004
All Parties Rebuttal Testimony Due	3/18/2004
Hearings - All Issues	4/5/2004-4/14/2004
Initial Posthearing Briefs Due	5/6/2004
Reply Posthearing Briefs Due	5/20/2004